

**ACCEPTANCE OF CONDITIONAL RESOLUTION
AND WAIVER OF RIGHT TO HEARING; (proposed) ORDER**

California Department of Transportation
Settlement Offer No. R4-2009-0014-M
NPDES Permit No. CAG914001

By signing below and returning this Acceptance of Conditional Resolution and Waiver of Right to Hearing (Acceptance and Waiver) to the Los Angeles Regional Water Quality Control Board (Regional Board), California Department of Transportation (Permittee) hereby accepts the "Offer to Participate in Expedited Payment Program" and waives the right to a hearing before the Regional Board to dispute the allegations of violations described in the Notice of Violation (NOV), which is attached hereto as Exhibit "A" and incorporated herein by reference.

The Permittee agrees that the NOV shall serve as a complaint pursuant to Article 2.5 of the California Water Code and that no separate complaint is required for the Regional Board to assert jurisdiction over the alleged violations through its Executive Officer. The Permittee agrees to pay the penalties required by California Water Code section 13385, in the sum of \$ ~~54,000~~ (Expedited Payment Amount), which shall be deemed payment in full of any civil liability pursuant to Water Code sections 13385 and 13385.1 that otherwise might be assessed for the violations described in the NOV. The Permittee understands that this Acceptance and Waiver waives the Permittee's right to contest the allegations in the NOV and the amount of civil liability for such violations.

The Permittee understands that this Acceptance and Waiver does not address or resolve liability for any violation that is not specifically identified in the NOV.

Upon execution by the Permittee, the completed Acceptance and Waiver shall be returned to:

Russ Colby, Enforcement Unit
Expedited Payment Program
Regional Water Quality Control Board, Los Angeles Region
320 West 4th Street, Suite 200
Los Angeles, California 90013

The Permittee understands that federal regulations set forth at title 40, Code of Federal Regulations, section 123.27(d)(2)(iii) require the Regional Board to publish notice of and provide at least 30 days for public comment on any proposed resolution of an enforcement action addressing NPDES permit violations. Accordingly, this Acceptance and Waiver, prior to execution by the Regional Board Executive Officer, will be published as required by law for public comment.

If no comments are received within the notice period that cause the Regional Board Executive Officer to question the Expedited Payment Amount, the Regional Board Executive Officer will execute the Acceptance and Waiver.

Settlement Offer No. R4-2009-0014-M
CI No. 8068, NPDES Permit No. CAG914001

The Permittee understands that if significant comments are received in opposition to the Expedited Payment Amount, the offer on behalf of the Regional Board to resolve the violations set forth in the NOV may be withdrawn. In that circumstance, the Permittee will be advised of the withdrawal and an administrative civil liability complaint may be issued and the matter may be set for a hearing before the Regional Board. For such a liability hearing, the Permittee understands that this Acceptance and Waiver executed by the Permittee will be treated as a settlement communication and will not be used as evidence in that hearing.

The Permittee further understands that once the Acceptance and Waiver is executed by the Regional Board Executive Officer, the full payment required by the deadline set forth below is a condition of this Acceptance and Waiver. In accordance with California Water Code section 13385(n)(1), funds collected for violations of effluent limitations and reporting requirements pursuant to section 13385 shall be deposited in the State Water Pollution Cleanup and Abatement Account. Furthermore, in accordance with California Water Code section 13385.1(b)(1), funds collected pursuant to section 13385.1 for failure to timely file a report shall be deposited in the State Water Pollution Cleanup and Abatement Account. Accordingly, the \$102,000 liability shall be paid by a cashiers or certified check for \$102,000 made out to the "State Water Pollution Cleanup and Abatement Account. The payment must be submitted to the Regional Board no later than ten (10) calendar days after the date the Permittee receives written notice that the Regional Board Executive Officer has executed this Acceptance and Waiver.

I hereby affirm that I am duly authorized to act on behalf of and to bind the Permittee in the making and giving of this Acceptance and Waiver.

California Department of Transportation

By: <u>Richard Gordon</u>	<u>5/4/2009</u>
(Signed Name)	(Date)
<u>Richard Gordon</u>	<u>MMTH</u>
(Printed or typed name)	(Title)

IT IS SO ORDERED PURSUANT TO WATER CODE SECTION 13385

Date: _____

By: _____
Tracy J. Egoscue
Executive Officer



California Regional Water Quality Control Board

Los Angeles Region



Linda S. Adams
Cal/EPA Secretary

320 W. 4th Street, Suite 200, Los Angeles, California 90013
Phone (213) 576-6600 FAX (213) 576-6640 - Internet Address: <http://www.waterboards.ca.gov/losangeles>

Arnold Schwarzenegger
Governor

April 27, 2009

Mr. Steve Chan
California Department of Transportation
Route I-105 Dewatering System
100 South Main Street
Los Angeles, CA 90012

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED
CLAIM NO. 7007 2560 0001 7889 1861

RESPONSE TO REQUEST FOR ALLEGED VIOLATION REVIEW – CALIFORNIA DEPARTMENT OF TRANSPORTATION, ROUTE I-105 DEWATERING SYSTEM, LOS ANGELES, CA (ORDER NOS. R4-2002-0107 AND R4-2007-0022, NPDES PERMIT NO. CAG914001, CI NO. 8068)

Dear Mr. Chan:

Thank you for providing additional information during your meeting with Regional Board staff on March 12, 2009, responding to the January 16, 2009 Settlement Offer No. R4-2009-0014-M (Settlement Offer), which assessed mandatory minimum penalties (MMPs) for violations of effluent limitations and late report violations. During the meeting, the Permittee provided additional information to the Regional Board contesting sixteen (16) effluent limit violations. This letter addresses your comments in this regard.

The Permittee identified sixteen (16) effluent limit violations where samples were collected to determine in-stream treatment efficiencies and therefore not representative of the effluent discharged to the storm drain. This has been verified with Regional Board staff and the invalid violations will be expunged from the CIWQS database.

You are hereby notified that, based on your March 12, 2009 submittal to the Regional Board, the sixteen (16) effluent limit violations cited in the Settlement Offer are hereby rescinded. However, the remaining twelve (12) effluent limit violations and six (6) late report violations noted in the January 16, 2009 Settlement Offer No. R4-2009-0014-M Notice of Violation (NOV) attached as Amended Exhibit "A" remain. Accordingly, the new settlement amount is \$54,000 and the liability shall be paid by cashiers or certified check for \$54,000 made out to the "State Water Pollution Cleanup and Abatement Account". Failure to pay the full penalty within the required time period may subject the Permittee to further liability.

Since the Permittee requested a review of this violation, the Regional Board has established new deadlines. If you intend to participate in the Expedited Payment Program, you must sign and return the previously sent Acceptance of Conditional Resolution and Waiver of Right to Hearing form by **May 27, 2009**. By signing the Acceptance and Waiver, California Department of

California Environmental Protection Agency



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Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

Mr. Steve Chan
California Department of Transportation

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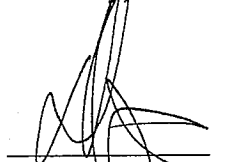
April 27, 2009

Transportation agrees to pay the penalty as indicated on the amended Exhibit A – Notice of Violation and waives the right to a hearing.

If you do not elect to sign the Acceptance and Waiver, you will be contacted regarding formal enforcement action that will be initiated with regard to the contested violation.

If you have questions regarding this matter, please contact Mr. Hugh Marley at (213) 620-6375 or Mr. Russ Colby at (213) 620-6373.

Sincerely,

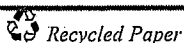

Deborah J. Smith
Chief Deputy Executive Officer

Enclosures:

Amended Exhibit "A" – Notice of Violation

cc: Reed Sato, Office of Enforcement, State Water Resources Control Board

California Environmental Protection Agency



Our mission is to preserve and enhance the quality of California's water resources for the benefit of present and future generations.

AMENDED EXHIBIT "A" - NOTICE OF VIOLATION

Effluent Limit Violations

Date	Violation Description	Pollutant Category	Serious/Chronic	Water Code Section 13385	Penalty
06/09/06	Jun 06 effluent violation (6/9/06) 1,1-Dichloroethylene (0.78 / 0.057 ug/L)	CAT2	SERIOUS	(h)1	\$3,000
06/09/06	Jun 06 effluent violation (6/9/06) 1,2-Dichloroethane (1.58 / 0.38 ug/L)	CAT2	SERIOUS	(h)1	\$3,000
06/09/06	Jun 06 effluent violation (6/9/06) Dichlorobromomethane (1.74 / 0.56 ug/L)	CAT2	SERIOUS	(h)1	\$3,000
06/09/06	Jun 06 effluent violation (6/9/06) Trichloroethylene (217 / 2.7 ug/L)	CAT2	SERIOUS	(h)1	\$3,000
06/27/06	Jun 06 effluent violation (6/27/06) 1,1-Dichloroethylene (1.47 / 0.057 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
06/27/06	Jun 06 effluent violation (6/27/06) 1,2-Dichloroethane (1.35 / 0.38 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
06/27/06	Jun 06 effluent violation (6/27/06) Dichlorobromomethane (1.67 / 0.56 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
06/27/06	Jun 06 effluent violation (6/27/06) Trichloroethylene (125 / 2.7 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
07/17/06	Jul 06 effluent violation (7/17/06) 1,1-Dichloroethylene (1.73 / 0.057 ug/L)	CAT2	SERIOUS	(h)1	\$3,000
07/17/06	Jul 06 effluent violation (7/17/06) Trichloroethylene (142.5 / 2.7 ug/L)	CAT2	SERIOUS	(h)1	\$3,000
07/17/06	Jul 06 effluent violation (7/17/06) Dichlorobromomethane (1.91 / 0.56 ug/L)	CAT2	SERIOUS	(h)1	\$3,000
07/25/06	Jul 06 effluent violation (7/25/06) 1,1-Dichloroethylene (1.67 / 0.057 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
07/25/06	Jul 06 effluent violation (7/25/06) Trichloroethylene (134 / 2.7 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
10/12/06	3Q06 effluent violation Filter E03 (10/12/06) Trichloroethylene (35.9 / 2.7 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
10/12/06	3Q06 effluent violation Filter E06 (10/12/06) Trichloroethylene (41.1 / 2.7 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
11/01/06	3Q06 effluent violation Filter E06 (11/01/06) Trichloroethylene (3.43 / 2.7 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
11/01/06	3Q06 effluent violation Filter E02 (11/01/06) Trichloroethylene (0.62 / 0.56 ug/L)	CAT2	CHRONIC	(i)1	Dismissed
11/01/06	3Q06 effluent violation Filter E03 (11/01/06) Dichlorobromomethane (4.19 / 0.56 ug/L)	CAT2	SERIOUS	(h)1	\$3,000
11/01/06	3Q06 effluent violation Filter E02 (11/01/06) Methylchloride (4.61 / 3 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
12/14/06	3Q06 effluent violation Filter E03 (12/14/06) NDMA (2.7 / 0.69 ug/L)	CAT2	SERIOUS	(h)1	\$3,000
12/28/06	3Q06 effluent violation Filter West (12/28/06) 1,1-Dichloroethylene (0.073 / 0.057 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
12/28/06	3Q06 effluent violation Filter E04 (12/28/06) 1,1-Dichloroethylene (0.497 / 0.057 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
12/28/06	3Q06 effluent violation Filter E05 (12/28/06) 1,1-Dichloroethylene (0.171 / 0.057 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
12/28/06	3Q06 effluent violation Filter E04 (12/28/2006) Trichloroethylene (4.67 / 2.7 ug/L)	CAT2	SERIOUS	(h)1	Dismissed
01/05/07	1Q07 effluent violation West Filter (1/5/07): BOD monthly average (100 / 20 mg/L).	CAT1	SERIOUS	(h)1	\$3,000
01/05/07	1Q07 effluent violation Filter E04 (1/5/07): BOD monthly average (110 / 20 mg/L).	CAT1	SERIOUS	(h)1	Dismissed
01/05/07	1Q07 effluent violation Filter E05 (1/5/07): BOD monthly average (105 / 20 mg/L).	CAT1	SERIOUS	(h)1	\$3,000
01/05/07	1Q07 effluent violation Filter E05 (1/5/07) 1,1-Dichloroethylene (0.093 / 0.057 ug/L)	CAT2	SERIOUS	(h)1	\$3,000
				Total	\$36,000

Late Reporting Violations

Reporting Period	Violation Type	Due Date	Received Date	Days Late	# of Complete 30-Day Periods	Serious/ Chronic	Water Code Section 13385	Amount Per 30-Day Period	Penalty
2nd Quarter 2007	Late Report	08/15/2007	12/14/2007	121	4	Serious	(h)(1)	\$3,000	\$12,000
4th Quarter 2007	Late Report	02/15/2008	04/16/2008	61	2	Serious	(h)(1)	\$3,000	\$6,000
							Total		\$18,000
							Settlement Total		\$54,000